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In re Application of :
Stitou et al. :
Application No. 10/549,326 :
PCT No.: PCT/FR04/00617 : SUPPLEMENTAL
Int. Filing Date: 12 March 2004 :
Priority Date: 18 March 2003 : COMMUNICATION
Atty. Docket No.: 032013-129 :
For: Method And Device For Rapid :
And High-Power Cold Production :

This is a supplemental communication in response to the renewed submission under 37 CFR 1.42 filed on 27 September 2006.

DISCUSSION

In a Communication mailed on 05 March 2007, the declaration of the inventors filed on 27 September 2006 was not accepted under 37 CFR 1.42, without prejudice, because

In response, counsel has submitted three new declaration documents, each of which lists the residence, citizenship and postal address of deceased joint inventor Bernard Spinner. However, one declaration lists (only) Caroline Spinner Broussard and Anne Christel Spinner Kohler as heirs, while the others list Bruno Spinner, Caroline Broussard and Christel Kohler, and also list Nathalie Mazet as signing "on behalf of Bernard Spinner's 2 minor children" without naming said children as heirs. These declarations are defective in that none of them lists the entire set of "all" of Mr. Spinner's heirs. As noted in the Communication mailed on 14 August 2006, a proper declaration submitted under 37 CFR 1.42 is required (per 37 CFR 1.497(b)(2)) to list all of the heirs/legal representatives as well as their citizenships, postal addresses and residences. With respect to the issue of Nathalie Mazet signing on behalf of the minor children, the fact that certain heirs may be minors does not relieve applicants of the requirement to list all of the heirs on the declaration, along with the pertinent information. It is also noted that said heirs may sign the declaration document, even if they are minors, so long as they understand its contents. In the event that counsel instead opts to submit a further declaration signed on their behalf by Nathalie Mazet, such a declaration must clearly identify on its face the capacity in which she is signing. In other words, it must specify the source of her authority to sign on behalf of the heirs (e.g., as "legal guardian" or "legal representative" of such heirs). In view of the defects noted, it would not be appropriate to accept the proffered declarations at this time.

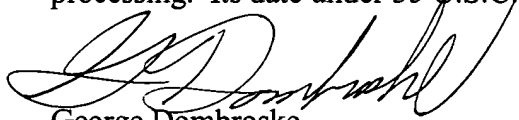
Further consideration of the facts present in this application reveals that the declaration documents filed on 27 September 2006 included two documents which name the entire inventive entity and which, taken together, are signed by the two surviving inventors and by all of Mr. Spinner's heirs (or Nathalie Mazet, on behalf of the two minor children). These two declaration documents provide the citizenship, residence and postal address information for Mr. Spinner, but they do not specifically identify the "two minor children" or their status as heirs vs. legal representatives. However, the third declaration document filed on 27 September 2006 does specifically identify all of the heirs, including Camille Spinner and Martin Spinner. It is noted that this third declaration document is signed by Martin Spinner, rather than by Nathalie Mazet

on his behalf, and that Martin Spinner has not executed a declaration document explicitly setting forth the citizenship, residence and postal address of Bernard Spinner. However, this is obviated by the fact that said information was attested to on his behalf by Nathalie Mazet in the earlier declaration documents. It is also noted that it is clear from the record as a whole that the "2 minor children" identified in the declaration documents filed on 27 September 2006 are Camille Spinner and Martin Spinner, who are described as being among Bernard Spinner's heirs. Based on the totality of the evidence of record, the declarations filed on 27 September 2006 are deemed to satisfy the requirements of 37 CFR 1.42 and 37 CFR 1.497(b)(2). Accordingly, the Communication mailed on 05 March 2007 is hereby VACATED.

CONCLUSION

The declaration filed on 27 September 2006 is ACCEPTED under 37 CFR 1.42.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 27 September 2006.



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